

BEFORE THE ARIZONA MEDICAL BOARD

In the Matter of

MARK S. WEIS, M.D.

License No. 33546
For the Practice of Allopathic Medicine
In the State of Arizona.

Case No. MD-06-0355A

**CONSENT AGREEMENT FOR
LETTER OF REPRIMAND AND
PROBATION**

CONSENT AGREEMENT

By mutual agreement and understanding, between the Arizona Medical Board ("Board") and Mark S. Weis, M.D. ("Respondent"), the parties agreed to the following disposition of this matter.

1. Respondent has read and understands this Consent Agreement and the stipulated Findings of Fact, Conclusions of Law and Order ("Consent Agreement"). Respondent acknowledges he has the right to consult with legal counsel regarding this matter.

2. By entering into this Consent Agreement, Respondent voluntarily relinquishes any rights to a hearing or judicial review in state or federal court on the matters alleged, or to challenge this Consent Agreement in its entirety as issued by the Board, and waives any other cause of action related thereto or arising from said Consent Agreement.

3. This Consent Agreement is not effective until approved by the Board and signed by its Executive Director.

4. The Board may adopt this Consent Agreement of any part thereof. This Consent Agreement, or any part thereof, may be considered in any future disciplinary action against Respondent.

5. This Consent Agreement does not constitute a dismissal or resolution of other matters currently pending before the Board, if any, and does not constitute any

1 waiver, express or implied, of the Board's statutory authority or jurisdiction regarding any
2 other pending or future investigation, action or proceeding. The acceptance of this
3 Consent Agreement does not preclude any other agency, subdivision or officer of this
4 State from instituting other civil or criminal proceedings with respect to the conduct that is
5 the subject of this Consent Agreement.

6 6. All admissions made by Respondent are solely for final disposition of this
7 matter and any subsequent related administrative proceedings or civil litigation involving
8 the Board and Respondent. Therefore, said admissions by Respondent are not intended
9 or made for any other use, such as in the context of another state or federal government
10 regulatory agency proceeding, civil or criminal court proceeding, in the State of Arizona or
11 any other state or federal court.

12 7. Upon signing this agreement, and returning this document (or a copy thereof)
13 to the Board's Executive Director, Respondent may not revoke the acceptance of the
14 Consent Agreement. Respondent may not make any modifications to the document. Any
15 modifications to this original document are ineffective and void unless mutually approved
16 by the parties.

17 8. If the Board does not adopt this Consent Agreement, Respondent will not
18 assert as a defense that the Board's consideration of this Consent Agreement constitutes
19 bias, prejudice, prejudgment or other similar defense.

20 9. This Consent Agreement, once approved and signed, is a public record that
21 will be publicly disseminated as a formal action of the Board and will be reported to the
22 National Practitioner Data Bank and to the Arizona Medical Board's website.

23 10. If any part of the Consent Agreement is later declared void or otherwise
24 unenforceable, the remainder of the Consent Agreement in its entirety shall remain in force
25 and effect.

1 11. Any violation of this Consent Agreement constitutes unprofessional conduct
2 and may result in disciplinary action. A.R.S. § § 32-1401(27)(r) ("[v]iolating a formal order,
3 probation, consent agreement or stipulation issued or entered into by the board or its
4 executive director under this chapter") and 32-1451.

5 **12. Respondent has read and understands the condition(s) of probation.**

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9 MARK S. WEIS, M.D.

DATED: 7.14.07

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FINDINGS OF FACT

1. The Board is the duly constituted authority for the regulation and control of the practice of allopathic medicine in the State of Arizona.

2. Respondent is the holder of license number 33546 for the practice of allopathic medicine in the State of Arizona.

3. The Board initiated case number MD-06-0355A after receiving a complaint regarding Respondent's care and treatment of a fifty-two year-old female patient ("RM").

4. RM was an alcoholic with alcoholic hepatitis and was unsuccessful with prior attempts at treatment for alcoholism. At RM's initial home visit with Respondent on December 22, 2005, RM was bed bound with dehydration, malnutrition, electrolyte abnormalities, elevated liver function tests and she was severely depressed. Respondent added Wellbutrin, a multi-vitamin and Megace to RM's medication regimen that included Prozac. Respondent also treated RM with intravenous fluids and Total Parenteral Nutrition. RM was not drinking alcohol at this time.

5. From January 1, 2006 to January 23, 2006, Respondent documented RM showed some clinical improvement, had fair judgment on her mental status examination, had gained weight and her electrolytes were improved.

6. During the January 23, 2006 examination Respondent documented RM smelled of alcohol. On January 24, 2006, RM's caregiver confirmed RM had been drinking.

7. On February 6, 2006 at Respondent's last home visit with RM, he documented that RM's caregiver again confirmed RM was drinking alcohol. Respondent examined RM and documented RM had poor judgment, was depressed and had some short term memory difficulties. Respondent's assessment and plan indicated RM was debilitated, alcoholic dependent, depressed and had cervical disc disease with myelopathy. Respondent's plan was to send RM to physical therapy. Respondent did not

1 provide a treatment plan or referral or discuss or intervene with regard to RM's resuming
2 alcohol consumption or her worsening mental state.

3 8. During Respondent's visits to RM's home Respondent used a computer
4 generated form to document his examinations of RM. Several of Respondent's computer
5 generated forms containing RM's physical examinations were essentially identical with
6 only the patient's personal information, Respondent's name, the date and the time of the
7 visits. There was no documented assessment, discussion, medication list or plan.

8 9. The standard of care requires a physician to address a patient's worsening
9 depression by either changing anti-depressants or referring the patient to a psychiatrist.
10 The standard of care requires a physician to address a patient's worsening mental status
11 with an evaluation including a complete blood count, chemistries, Central Nervous System
12 imaging and/or refer the patient to a neurologist. The standard of care requires a physician
13 to offer a patient that has resumed alcohol consumption either a treatment plan or a
14 referral.

15 10. Respondent deviated from the standard of care because he failed to address
16 RM's worsening depression and he failed to change RM's medication regimen or refer her
17 to a psychiatrist. Respondent deviated from the standard of care because he failed to
18 address RM's worsening mental status with an evaluation. Respondent deviated from the
19 standard of care because he failed to offer RM a treatment plan or a referral when she
20 resumed drinking alcohol.

21 11. Respondent's failure to address RM's alcoholism increased her risk of
22 suicide. Respondent's failure to evaluate RM's deteriorating mental status could have
23 delayed a diagnosis of possible Wernicke's Encephalopathy, subdural hematomas and
24 central nervous system infections.

12. A physician is required to maintain adequate legible medical records containing, at a minimum, sufficient information to identify the patient, support the diagnosis, justify the treatment, accurately document the results, indicate advice and cautionary warnings provided to the patient and provide sufficient information for another practitioner to assume continuity of the patient's care at any point in the course of treatment. A.R.S. § 32-1401(2). Respondent's records were inadequate because several of RM's physical examinations were essentially identical with only the patient's personal information, Respondent's name, the date and the time of the visits.

CONCLUSIONS OF LAW

1. The Board possesses jurisdiction over the subject matter hereof and over Respondent.

2. The conduct and circumstances described above constitute unprofessional conduct pursuant to A.R.S. § 32-1401(27)(e) ("failing or refusing to maintain adequate records on a patient") and A.R.S. § 32-1401(27)(q) ("any conduct or practice that is or might be harmful or dangerous to the health of the patient or the public.").

ORDER

IT IS HEREBY ORDERED THAT:

1. Respondent is issued a Letter of Reprimand for his failure to appropriately manage an alcoholic patient with depression and for failure to maintain adequate medical records.

2. Respondent is placed on probation for **one year** with the following terms and conditions:

A. Continuing Medical Education (CME)

Respondent shall, **within six months** of the effective date of this Order undergo the Physician Assessment and Clinical Education Program (PACE) record keeping course and

1 provide Board Staff with satisfactory proof of attendance. The CME hours shall be in
2 addition to the hours required for the biennial renewal of medical license. The probation
3 shall terminate upon successful completion of PACE record keeping course.

4 B. Obey All Laws

5 Respondent shall obey all state, federal and local laws, all rules governing the
6 practice of medicine in Arizona, and remain in full compliance with any court order criminal
7 probation, payments and other orders.

8 C. Tolling

9 In the event Respondent should leave Arizona to reside or practice outside the
10 State or for any reason should Respondent stop practicing medicine in Arizona,
11 Respondent shall notify the Executive Director in writing within ten days of departure and
12 return or the dates of non-practice within Arizona. Non-practice is defined as any period of
13 time exceeding thirty days during which Respondent is not engaging in the practice of
14 medicine. Periods of temporary or permanent residence or practice outside Arizona or of
15 non-practice within Arizona, will not apply to the reduction of the probationary period.

16 3. This Order is the final disposition of case number MD-06-0355A.

17 DATED AND EFFECTIVE this 8th day of June, 2007.



21 ARIZONA MEDICAL BOARD

22 By 

23 TIMOTHY C. MILLER, J.D.
24 Executive Director

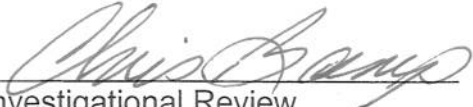
25 ORIGINAL of the foregoing filed
this 8th day of June, 2007 with:

Arizona Medical Board
9545 E. Doubletree Ranch Road
Scottsdale, AZ 85258

1 EXECUTED COPY of the foregoing mailed
2 this 24 day of June, 2007 to:

3 Mark S. Weis, M.D.

4 Address of Record

5 
6 Investigational Review